



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

MARTIN & FERRARO, LLP  
1557 LAKE O'PINES STREET, NE  
HARTVILLE OH 44632

JUN 04 2007

JUN 04 2007

In re Application of:	:	
Michelson, Gary K.	:	
Serial No. 09/497590	:	
Filed: June 06, 2000	:	
Docket: 101-0044-03000	:	DECISION ON PETITION
Title:	:	UNDER 37 CFR § 1.144
APPARATUS FOR INSERTING	:	
SPINAL IMPLANTS	:	

This is a decision on the petition filed March 31, 2006 under 37 CFR § 1.144 requesting modification of the election requirement. Petitioner authorized a fee of \$130.00 be charged to Deposit Account No. 50-3726 under 37 CFR § 1.17(h) for handling of the petition.

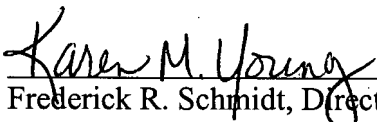
The petition is dismissed.

The examiner construed the petition as a request for reconsideration and in finding petitioner's points of argument persuasive, granted applicant's requests in a non-final Office action mailed August 26, 2006. In view of the examiner's action, decision on the petition is moot and subject to dismissal.

There is no fee for a petition under 37 CFR § 1.144. Therefore, petitioner may request a refund under 37 CFR § 1.26 in a separate letter addressed to the USPTO as provided for under 37 CFR § 1.1(a). A copy of this decision should be attached to the letter. Questions regarding the refund may be directed to the Office of Finance at 571-272-6500.

PETITION DISMISSED.

Any inquiry regarding this decision should be directed to Allan N. Shoap, Special Programs Examiner, at (571) 272-4514.

for   
\_\_\_\_\_  
Frederick R. Schmidt, Director  
Technology Center 3700